

[Sri C. Rajagopalachari] [20th July 1953]

enquiry going on and agrees to have the discussion a few days later, i.e., after the Andhra Bill debate is over, I shall be much gladder. But I am quite ready to take it up to-morrow."

SRI M. KALYANASUNDARAM :—" Some Members of the Opposition are anxious to have the discussion, if possible, to-day itself. The Hon. the Chief Minister's objection can be overcome in this way. We can have a debate to-day between 12 noon and 2 p.m. We shall sit till 2 o'clock."

MR. SPEAKER :—" We shall now pass on to the next item of business."

III.—PRIVILEGE MOTION—ALLEGED ARREST AND DETENTION OF SRI N. K. PALANISWAMI, M.L.A.

MR. SPEAKER :—" The Hon. the Chief Minister wants to say something on the privilege motion of Sri K. P. Gopalan. Then I will hear what the hon. Member, Sri K. P. Gopalan, has to say. The Hon. the Chief Minister will now make his statement."

* THE HON. SRI C. RAJAGOPALACHARI :—" The issue raised now relates to a question of privilege on behalf of Sri N. K. Palaniswami, a Member of this House. I have, as promised, enquired and got a report about the actual facts of the case, as far as I could gather. It is now understood that on the occasion of my visit to Arachalur in the Coimbatore district on the 17th May 1953 for distribution of lands gifted to Bhoodan authorities, Sri N. K. Palaniswami, M.L.A., wished to lead a deputation of about 150 persons for the ventilation of certain grievances. The persons were collected at Veerappampalayam and were being led to Arachalur. Sri Palaniswami must have known that it would ordinarily not be possible for me to alter my previously announced and tightly packed programme and receive a deputation of that kind without prior appointment. It was the duty of the executive authorities of the Coimbatore district to ensure the completion of the Chief Minister's tour programme without interruption. It appears from the report of the District Superintendent of Police, Coimbatore, that the Police had information that, if the so-called deputationists were allowed to reach Arachalur in time for the meeting at which the lands were due to be distributed, unpleasant incidents might occur. The Police therefore arrested the leaders of the march at Veerappampalayam—not Sri Palaniswami. Sri Palaniswami says that the behaviour of the Police towards the persons who were arrested was brutal. The allegation is not true but even if that allegation be taken to be true, no question of breach of parliamentary privilege would arise. He was not one of the persons who were arrested at that time, and was not present with them then.

" Sri Palaniswami says that he interviewed the District Superintendent of Police, Coimbatore, and that during the interview, he was arrested by an Inspector of Police and taken to the Police station and detained there till 12 noon.

20th July 1953] [Sri C. Rajagopalachari]

“ The District Superintendent of Police, Coimbatore, reports that Sri Palaniswami was not arrested or detained. Sri Palaniswami's letter makes it appear that the alleged interview with the District Superintendent of Police and the alleged arrest were before the arrival of the Chief Minister at Arachalur. The District Superintendent of Police denies that he saw Sri Palaniswami that day before the Chief Minister's arrival at Arachalur. The District Superintendent of Police escorted the Chief Minister from Erode to Arachalur. *Prima facie*, therefore, Sri Palaniswami's statement of an interview with the District Superintendent of Police in the course of which he was arrested appears to be due to defective recollection of the facts. He has not made any complaint to the local magistrate or courts on this subject of alleged wrongful confinement. If the M.L.A. happened to be near and had desired to see me himself, in spite of there being no previous appointment, I would have somehow found time to oblige him. There does not appear to be any case of breach of privilege for investigation by the House or by a Committee of the House. A House of Commons paper has been recently circulated by the Speaker about the very restricted scope of privilege.”

* SRI K. P. GOPALAN :— Sir, it is a very serious matter to arrest a Member of the Legislative Assembly and detain him in jail. (Interruption.) It is really serious to keep him in Police custody and prevent him from giving the memorandum to the Hon. the Chief Minister. The hon Member, Sri N. K. Palaniswami, is here. I appeal to the Hon. Speaker to give him time to explain the matter and give further details, if necessary. 9-40 a.m.

“ Now, from the statement of the Hon. the Chief Minister I understood that the time for giving the memorandum was not fixed. If it was true, the Police officers should have told the hon. Member that the time had not been fixed. Instead of that, the Deputy Superintendent of Police and the Assistant Superintendent of Police arrested him and detained him. In this connection, I am thankful to the Hon. Speaker for having circulated among the Members of the House a note regarding Captain Ramsay's case. I hold the view that the present case involves a question of privilege. I shall explain why I consider it so. In Captain Ramsay's case it was emphasised that ‘ the fact that the Executive is now responsible to Parliament and that powers such as those in question in this case can only be exercised if conferred by Parliament itself, is relevant when considering general statements such as that quoted from Blackstone made at the time of or in relation to that conflict ’. But, Sir, the present position in India is quite different. Our Constitution is different. In our country the Executive is not responsible to the Legislature. It will be apparent if you read Articles 154, 163 and 164 in the Constitution. Now, in our country, in the Parliament and in the Legislative Assemblies, the struggle is between the Legislature on the one side and the Executive on the other side. The proceedings of this House will amply testify to this statement. Suppose an

[Sri K. P. Gopalan]

[20th July 1953]

hon. Member wants to get information from the Government, the Government can refuse to give the information on the ground that it is confidential and that they are not bound to answer. The privilege of the House is intended to protect the Members. Now, I shall quote from the Hon. Speaker's circular—

'Privilege of Parliament was principally established in order to protect its Members not only from being molested by their fellow-subjects, but also, more especially from being oppressed by the power of the Crown,' "

MR. SPEAKER :—"The hon. Member is misquoting me. Wherever it suits him, he quotes."

SRI K. P. GOPALAN :—"That is why I said that the conditions in our country were quite different."

MR. SPEAKER :—"The hon. Member should know that the privileges we enjoy are the privileges enjoyed by the House of Commons. Let him go through Article 194 (2) of the Constitution."

SRI K. P. GOPALAN :—"There is a difference."

MR. SPEAKER :—"There is no difference."

SRI K. P. GOPALAN :—"When England was ruled by the King, the King had extraordinary powers. Now, when the Executive is subordinate to Parliament, the position is different. Therefore, I submit that protection 'from being oppressed by the power of the Crown' means that Members of the Legislative Assembly should be protected from arbitrary arrest and detention by any Police officer or officers."

"My second point is this. It is conceded in Captain Ramsay's case that Members should be granted privilege 'in order that they may be able to perform their duties in Parliament without let or hindrance'."

MR. SPEAKER :—"Where is it said? Let the hon. Member read my note."

(The hon. Member Sri T. Viswanatham rose to speak.)

THE HON. SRI C. RAJAGOPALACHARI :—"On a point of order, Sir. If at all anyone should interrupt, it is I. Why should the hon. Member Sri Viswanatham take up my place now?" (Laughter.)

MR. SPEAKER :—"Perhaps he is going to be the future Andhra Speaker." (Laughter.)

SRI T. VISWANATHAM :—"Sir, I am not arguing. The hon. Member who is concerned in the matter is actually on the floor of the House. Will the House be able to know the facts from him? The Hon. the Chief Minister has stated certain facts with regard to him. I think the discussion can be more intelligently followed by us if the hon. Member is given an opportunity to explain the matter."

20th July 1953]

THE HON. SRI C. RAJAGOPALACHARI:—"The hon. Member, Sri Viswanatham, is a little premature. If the matter is considered as one of privilege and a Committee goes into it, the hon. Member will have every opportunity to hear witnesses."

SRI T. NAGI REDDI:—"The point made by the hon. Member, Sri Viswanatham, was that the hon. Member concerned is here . . ."

* THE HON. SRI C. RAJAGOPALACHARI:—"The representations made here run in a curiously linked chain. Sri Palanisami is here. He has not raised any question of privilege. Sri Gopalan raises it. When Sri Gopalan raises a point, Sri Viswanatham rises to supplement it. When Sri Viswanatham rises, Sri Nagi Reddi wants to interpret Sri Viswanatham."

SRI T. NAGI REDDI:—"There is no question of interpreting . . ."

MR. SPEAKER:—"I will ask Sri Gopalan to continue. As soon as he finishes, let Sri Palanisami say a few words. Then I will give my ruling."

SRI PILLALAMARRI VENKATESWARLU:—"Others also must be allowed to say something."

MR. SPEAKER:—"Only if the Speaker says that a *prima facie* case has been made out, and not till then."

SRI PILLALAMARRI VENKATESWARLU:—"I am not making it a general discussion."

MR. SPEAKER:—"First let me hear Sri Gopalan."

* SRI K. P. GOPALAN:—"I want to explain my point further, Sir. We should not think that the Members of the Assembly have only limited functions. My contention is this. In the present state of affairs existing in our country, when the District Boards and Municipalities are not enjoying the same powers as the county councils and other bodies in England, we should not think that the responsibilities and functions of the Members of the Assembly are only limited. Their functions do not stop with attending and taking part in Legislatures. Their functions extend to many matters. For example, they must have the right to approach Ministers or other Officials and they must have the right to lead deputations to them. They must have immunity from arrest. When they discharge their duties, when they take a deputation on behalf of the people to the Chief Minister or any other Officer of the Government, they should not be prevented from seeing those people. 9 50 a.m.

"My third point is that maximum privileges have been conceded even in the Ramsay's case. In paragraph 9, page 3 of the note circulated to us it is said, 'The chief, if not the only privilege of Parliament in such cases seems to be the right of

[Sri K. P. Gopalan]

[20th July 1953]

receiving immediate information of the imprisonment or the detention of any Member with the reasons for which he is detained.' In the present case, the reason for the arrest is not given. Moreover, the fact of arrest is also not intimated to the Hon. Speaker or the Secretary of the Legislature. This is not the first time, Sir, that this kind of arrest took place. Even on a previous occasion, another Hon. Member of this House, Sri B. Sankarayya, Nellore, was arrested in this manner, in his constituency. I want the House to take special notice of these facts. A very important right of the hon. Members of the Assembly, viz., leading a deputation to the Chief Minister, is denied and the hon. Member was arrested. The reason for the arrest is not given. The fact of arrest is also not communicated to the Hon. Speaker or the Secretary of the Legislative Assembly.

"So I submit that this is a very serious matter involving the privileges of the Members of the House."

MR. SPEAKER :—"The hon. Member wants new privileges to be included."

SRI K. P. GOPALAN :—"No doubt, Sir, for protecting the privileges of members."

MR. SPEAKER :—"The hon. Member wants this to be included hereafter."

SRI K. P. GOPALAN :—"There should be absolute immunity from arrest, whenever a Member wants to lead a deputation to the Minister . . ."

MR. SPEAKER :—"Let the hon. Member explain."

SRI K. P. GOPALAN :—"Even in the present instance, information was not given to the Hon. Speaker or the Secretary to the Legislative Assembly. Lastly, I want to submit that the hon. Member, Sri Palaniswamy, wanted to give a memorandum to the Hon. Speaker. He was prevented by the Police."

MR. SPEAKER :—"I am always at the disposal of the hon. Members. I come to the office half an hour before the Assembly starts. Nobody could have prevented the hon. Member from seeing me."

SRI M. KALYANASUNDARAM :—"The hon. Member only meant the Hon. Chief Minister. He wanted to say that Mr. Palaniswamy was prevented from seeing the Chief Minister."

SRI K. P. GOPALAN :—"This matter involves the privileges of the Members of this House. If a Member is effectively prevented from leading a deputation to the Chief Minister or any other Officer, how can he discharge his duties? I want that the function of the Assembly Member must be explained. He must be the tribune of the people. He must be with the people. He must represent the grievances of the people to the Ministers and

20th July 1953]

[Sri K. P. Gopalan]

the Government. Besides taking part in the proceedings of the Assembly, he has several duties to discharge. In this country, where Government institutions are functioning autocratically and the executive is not subordinate to the Legislature, the Members of the Assembly have many functions to discharge outside the Legislature. So, their duties outside the Legislature should be clearly defined."

MR. SPEAKER :—" It has been clearly defined in May's Parliamentary Practice. The hon. Member must find some time and go through it. We need not define it."

SRI K. P. GOPALAN :—" It must be put into practice."

MR. SPEAKER :—" We are in fact putting it into practice."

SRI K. P. GOPALAN :—" We have to verify that, Sir."

MR. SPEAKER :—" Let me now hear Mr. Palaniswamy."

* SRI N. K. PALANISWAMI :—" கனம் சபாநாயகர் அவர்களே ! முதல் மந்திரி சொல்வதில் எந்த விதமான நிபாயமும் கிடையாது. அவருக்கு கிடைத்து இருக்கக்கூடிய செய்தி தவறானது."

" அந்த ஜில்லாவில் ரொம்ப ஊழல்கள் இருக்கின்றன. அந்த ஊழல்களை அனுசரித்து பஞ்சத்திற்கு எந்த விதமான நடவடிக்கையையும் அதிகாரிகள் எடுக்கவில்லை. அதை அடிப்படையாகக்கொண்டு ஏழாயிரம் பேர் கையெழுத்து போட்ட ஒரு மகஜருடன் 150 பேர் வந்தோம். அந்த மகஜர் அவர் கையில் கிடைக்கக்கூடாது என்பதனால் இந்த மாதிரி கூத்து நடந்திருக்கிறது. இது ரொம்ப முக்கியம்."

" அதுமட்டுமல்ல. கனம் விஸ்வநாதம் அவர்களெல்லாம் எனக்காகத் தான் பேசுகிறார்கள். அவர் இந்தச் சபையில் இருக்கின்ற மெம்பர்கள். அவர்களுக்கு பேச உரிமை உண்டு, என்பதையும் கவனத்திற்குக் கொண்டு வருகின்றேன்."

MR. SPEAKER :—" யார் பேசவேண்டாமென்று சொன்னார்கள் ? "

* SRI N. K. PALANISWAMI :—" வீரப்பம்பாளையம் என்ற ஊர் அரசலூர் என்ற இடத்திற்கு மூன்று மைலுக்கு அப்பால் இருக்கின்ற பிரதேசம். அங்கு நாங்கள் வரும்போது ஒரு போலீஸ் பார்ட்டி தடுத்தது ; ' போக கூடாது ' என்று சொன்னது. ' அந்த இடத்தில் 144 சட்டம் இருக்கிறதா ? ' என்று கேட்கிறது ' அது ஒன்றுமில்லை, நீங்கள் போகக்கூடாது ' என்று சொன்னார்கள். ' வேண்டுமானால், நீங்கள் பர்மிஷன் வாங்கிக் கொண்டு கனம் பிரதம மந்திரியைப் பார்க்கலாம் ' என்று சொன்னார்கள். அதன் பேரில் நான் மட்டும் தனியாக அரசலூருக்குச் சென்றேன். அப்பொழுது கனம் மந்திரி அவர்கள் வரவில்லை. அப்பொழுது Dy. S. P. ஈரோடில் இருந்தார். ஜன நாயக முறையில் கண்டிப்பாக பார்க்கவேண்டும் ; அதிகமான குறைகள் இருக்கின்றன ; பார்ப்பதற்கு பர்மிஷன் கொடுக்கவேண்டுமென்று கேட்போது தாராபுரம் ஸர்க்கில் இன்ஸ்பெக்டர் என் சட்டையைப் பிடித்து, தர தர வென்று இழுத்துக்கொண்டு போய், ' இங்கே இப்படியே இரு ' என்று உட்கார வைத்துவிட்டார், போலீஸ் ஸ்டேஷனில்."

" அதற்குப் பிறகு, எப்படியாவது பிரதம மந்திரியைப் பார்த்தாக வேண்டும் ; அதிகமான பேர்கள் இருக்கிறார்கள், என்று அவர்களுக்குச் சொன்ன போது, ' போகக்கூடாது ' என்று சொல்லி உட்கார வைத்து விட்டார். அந்த முறையில் இருந்தால், நாங்கள் எப்படி பிரதம மந்திரியைப் பார்த்துச் சொல்ல முடியும் ? அது மட்டுமல்ல."

[Sri N. K. Palaniswami] [20th July 1953]

“ அங்குள்ள விவசாயிகளைக் கூட அந்த வழியாக போகக்கூடா தென்று சொன்னதும், அமைதியான முறையில் விவசாயிகள் தோட்டத் திற்குப் பின்னால் போய், கட்டுச்சாதத்தைச் சாப்பிட்டுக் கொண்டிருந் தார்கள். அந்த வேளையிலே 70, 80 போலீஸ்காரர்கள் துப்பாக்கியுடன் சென்று, அவர்களிடமிருந்த கட்டுச்சாதத்தை மிதித்து, அவர்களை நன்றாக Deputy Superintendent of Police உத்திரவின் பேரில் அடித்தார்கள்..”

MR. SPEAKER :—“ உங்களையா அடித்தார் ? ”

* SRI N. K. PALANISWAMI :—“ கூட வந்த விவசாயிகளை. அதற்குப் பிறகு நடந்த அசம்பாவிதம் அதிகம். கிராமம் கிராமமாகச் சென்று போலீஸ் செய்த அட்டுழியம் சொல்லி முடியாது. ஒவ்வொரு கிராமத் திலும் விவசாயிகளை. . . .”

MR. SPEAKER :—“ உங்கள் வரைக்கும் பேசுங்கள். Privilege motion உங்களைப் பொறுத்தது.”

10
a.m.

SRI S. RAMALINGAM :—“ I want to speak, Sir.”

MR. SPEAKER :—“ I am not going to allow a debate on this matter.”

SRI PILLALAMARRI VENKATESWARLU :—“ We want a translation of the speech.”

MR. SPEAKER :—“ Order, order. It is not possible for me to arrange for a translation. I cannot do that.”

SRI T. NAGI REDDI :—“ Sir, the Hon. the Chief Minister has made a certain statement which is contradicted by the hon. Member concerned who was on the spot. The point we are now to consider is whether the privilege of the Member has been affected or not. The question for consideration is whether what the Chief Minister stated is correct and his statement is contradicted by the Member concerned. So, we do not know which statement is correct. Therefore, the House must have full facts in its possession to decide whether there is a *prima facie* case or not. Hon. Members must be given some time to discuss the matter as otherwise we will not know the actual facts.”

MR. SPEAKER :—“ I cannot understand this.”

SRI T. NAGI REDDI :—“ You must allow at least ten minutes to the hon. Members to discuss and verify facts.”

MR. SPEAKER :—“ I know the facts. Granting for the sake of argument that what the Chief Minister has stated is not true, I am going to give my ruling on the Motion.”

SRI T. NAGI REDDI :—“ Ultimately you are going to give a ruling and it will be accepted also. That apart, there are certain facts which are placed before the House by the hon. Member that he was detained at the police station. On the other hand, the Chief Minister maintains that he was not arrested or molested. Before we consider whether hon. Members have a right to treat it as an issue of privilege it must be discussed thoroughly so that fuller facts might be known.”

MR. SPEAKER :—“ It cannot be discussed.”

20th July 1953]

SRI T. NAGI REDDI :—“ How are the Members to know then whether there is privilege issue involved in it? ”

THE HON. SRI C. RAJAGOPALACHARI :—“ I hope that some privilege will be given to me who am concerned with this matter in more than one way. We are now concerned with the Motion of Privilege . . . ”

SRI T. NAGI REDDI :—“ On a point of order . . . ”

MR. SPEAKER :—“ I will allow the hon. Member to speak afterwards.”

THE HON. SRI C. RAJAGOPALACHARI :—“ On a mere claim of point of order we are having an unending series of interruptions.”

SRI T. NAGI REDDI :—“ The Chief Minister has no right to give a ruling.”

MR. SPEAKER :—“ When I have called the Chief Minister, I cannot allow other hon. Members to interrupt him. The Chief Minister has no right to give a ruling.”

THE HON. SRI C. RAJAGOPALACHARI :—“ I cannot do that, I know. It is possible to misunderstand everything and shout about it. The question is whether the Speaker has allowed me to speak or not.”

SRI T. NAGI REDDI :—“ But you are not allowed to give a ruling.”

THE HON. SRI C. RAJAGOPALACHARI :—“ The question is whether the Speaker should check hon. Members or not when he has asked me to speak. It is not open to hon. Members wherever they may be sitting to get up and interrupt unnecessarily. It is quite easy to get a ruling from the Speaker without all this shouting. (Sri T. Nagi Reddi : ‘ Because you gave a ruling ’.) The hon. Member imagines that I have given a ruling. I have made it quite plain that I have not.”

MR. SPEAKER :—“ The Chief Minister cannot give a ruling and he has not given a ruling.”

SRI T. NAGI REDDI :—“ That is what we want.”

THE HON. SRI C. RAJAGOPALACHARI :—“ The Chief Minister has sufficient understanding of the proceedings of the House to know that disturbances should not be allowed and misunderstandings should not be allowed. The Chief Minister does not give a ruling but like Mr. Nagi Reddi, the Chief Minister has at least the right to get up and ask for a ruling. Let me now proceed with the Motion before the House.”

SRI PILLALAMARRI VENKATESWARLU :—“ I have a point of order to raise, Sir. I want a ruling on this. When an hon. Member has made a statement in Tamil which we feel is very important, are we not entitled to a translation of it or at least a

[Sri Pillalamarri Venkateswarlu] [20th July 1953]

gist of it to enable us to know the full facts of the case? The Chief Minister made a statement and that statement is disputed by the Member concerned. The House is entitled to know what the position is and whether the facts given by the Chief Minister or the Member are correct. On the question of privilege, you will give a ruling which we are going to accept. But are we not entitled at least to a gist of the statement made by the hon. Member, if not a translation? The statement is refuted by the Chief Minister that the Member was arrested or detained and the Member in his turn has refuted this statement of the Chief Minister. Therefore, Sir, we want a gist in English of what the hon. Member spoke in Tamil."

MR. SPEAKER :—" I think it is in the letter itself."

SRI V. BALAKRISHNAN :—" Can an hon. Member claim a right of procedure in the House by demanding the translation of another Member's speech? "

MR. SPEAKER :—" I have got the letter with me. He has given facts about the whole case in it."

THE HON. SRI C. RAJAGOPALACHARI :—" May I interrupt a while, Sir? What the hon. Member now wants is a gist of what was now said and not the contents of the letter which is in English. There is no necessity to translate it. The statement he has made in the letter is very different from what he said now."

MR. SPEAKER :—" Who will translate the speech? "

SRI M. KALYANASUNDARAM :—" I shall do it, Sir. The hon. Member, Mr. Palaniswami, with a batch of peasants wanted to see the Chief Minister when he visited Arachalur in Coimbatore district. He reached, with all his followers, the village of Veerappanpalayam which is just three miles from Arachalur where the Chief Minister was staying. As soon as the party reached Veerappanpalayam, a police party came there and prevented Mr. Palaniswami and the party from proceeding further. After a lot of pleading, Mr. Palanisami was allowed to go to Arachalur to get permission for the deputation to reach Arachalur. As soon as he reached Arachalur, without even hearing his representation, the Sub-Inspector of Police who was present there took him to the police station by force and asked him to remain there, thus preventing him from either getting permission to see or for seeing the Chief Minister."

THE HON. SRI C. RAJAGOPALACHARI :—" Is Mr. Kalyanasundaram making another statement of his own? If he is translating what the Member said, then I respectfully submit, the Member did not say this."

SRI M. KALYANASUNDARAM :—" He did say this. May I add a few sentences more? Let the Chief Minister have patience."

THE HON. SRI C. RAJAGOPALACHARI :—" He did not say it. But he ought to have said it." (Laughter.)

20th July 1953]

SRI M. KALYANASUNDARAM :—“ I can understand the impatience of the Chief Minister. With due deference to his views, I submit that what I said was a translation of what he said. I am only representing to the House what the hon. Member said. After being detained in the police station, he was allowed to go out only after the Chief Minister left the place. He reached his party then and learnt from the peasants that they were encircled by the police while they were taking their food, their food was destroyed and they were taken to the police station.”

MR. SPEAKER :—“ The hon. Member was not taken. So, that is a different matter.”

SRI M. KALYANASUNDARAM :—“ This is enough for the discussion. May I make a submission on my own behalf? For purposes of privilege, the question is not one of absolute immunity from arrest. Here is a case where a Member wanted to see the Chief Minister along with other representatives of his constituency to make representations on particular matters. Not only he was prevented from seeing the Chief Minister but even without conveying the information to the Chief Minister, the Member was kept in police custody. If that was a wrongful arrest, then the crime is much worse. He was wrongfully and forcibly taken to the police station and detained there for four hours. On the other hand, facts are allowed to be placed before the House by the Chief Minister taking advantage of his privileged position, which are not correct and which are supplied by the Police officials. We have known the ways of our Chief Minister as also his anxiety to uphold the importance of the dog in wagging its tail. He wants to rely on the Police officials' report. But here is the Member who was present there and whose statement must be respected and given preference.”

SRI P. RANGASWAMI REDDIAR :—“ Mr. Speaker, Sir, 10-10
about the arrest of the hon. Member, Sri Palanisami, a detailed a.m.
report appeared in the Tamil Daily, “ Dinamani ” on 19th May or 20th May. From that report I at least understood that the hon. Member was arrested by the police unwarrantedly and under the circumstances which did not warrant any arrest. So far to my knowledge no contradiction has been issued by the Government.

“ Sir, in this connexion I wish to draw the attention of the Hon. Chief Minister to one fact. Invariably the tour programmes of Hon. Ministers are sent in advance to Members of both the Houses and the tour programmes of important Heads of Departments are also sent in advance to all the hon. Members. I would respectfully put the question to the Hon. Chief Minister whether the hon. Members are to be treated like this and terrorized, so to say. That is a very pertinent thing and this is the best occasion when the Hon. Chief Minister may explain the position as to what exactly the Government expect from the hon. Members who get

[Sri P. Rangaswami Reddiar] [20th July 1953]

advance copies of tour programmes and what exactly the representation the Hon. Chief Minister expects from the hon. Members? Is it not the legitimate right and privilege of hon. Members to meet the Hon. Ministers whenever they tour in their respective constituencies and is it not the right and privilege of hon. Members to seek redress of the grievances of the people then? "

* SRI T. NAGI REDDI :—" One minute, Sir. The first point to be considered here is whether we should take into consideration the facts that have been laid before the House by the hon. Member who, according to his own version, was very high-handedly treated by the executive authority and in a manner in which he was not allowed to see the Hon. Chief Minister when he went to that particular constituency or should we take into consideration on the floor of this House the report sent by an authority of the lower rung who had himself arrested the hon. Member and are we to treat this document which the Hon. Chief Minister has read here as true? I, as an hon. Member of this House, respectfully submit that it is very important for the House to take the version of the hon. Member here as true and reject the version that has been given by the Hon. Chief Minister as the version of an officer who himself is responsible for arresting the particular hon. Member. So, if we are to take that position as correct and proper, then it is certainly the privilege of the Member of this House and then it becomes essential for this House to go into the whole question to consider whether it is not the privilege of the hon. Member to go and speak to the Hon. Chief Minister in his own constituency and lead a deputation to the Hon. Chief Minister whenever he is present in his constituency and whether an executive authority can arrest him without previous information and without an 144 Section Order being promulgated. If that is not taken into consideration by the House, we would be reducing ourselves into a position where no hon. Member will have any protection outside this House. I want, Sir, to tell the Hon. Chief Minister through you that he must at least now take the words of the hon. Member here as facts and take them into consideration and reject the version that has been given to him by the Circle Inspector; if he could take action on that again and place the facts before the House—if he gives that assurance—we may postpone the question of privilege to a later date. If not, my submission is that the Speaker should allow the House to discuss this privilege question and decide the issue."

MR. SPEAKER :—" I am guided by certain principles laid down in May's Parliamentary Practice."

* SRI T. NAGI REDDI :—" Sir, the point is these practices are different according to the circumstances in which they were laid down. The social and political conditions in which they came into existence are different from those here. No Member of Parliament could be mishandled by a Policeman"

MR. SPEAKER :—" M.Ps. are not above law."

20th July 1953]

SRI T. NAGI REDDI :—“ That is true, Sir. All the same certain traditions and practices are there to prevent high handed action against M.Ps. and . . . ”

(Interruption from several hon. Members from Opposition Benches.)

MR. SPEAKER :—“ Order. Order. Let me hear the hon. Member Sri Viswanatham.”

SRI T. VISWANATHAM :—“ May I submit, Sir, that the Hon. Chief Minister has made a definite statement in respect of a particular hon. Member and that particular hon. Member here has stated certain other facts which are contradictory. Can we not make a reference to the Privileges Committee.”

* THE HON. SRI C. RAJAGOPALACHARI :—“ May I begin, Sir, at some stage or other? Sir, after 35 minutes, a proposal is made that the question should be adjourned. Instead of making issues . . . (Interruption.) I was only referring to Mr. Nagi Reddi . . . ”

SRI T. NAGI REDDI :—“ Sir, that is not exactly what I said. One should not misrepresent things and there should be decency about what one says . . . ”

* THE HON. SRI C. RAJAGOPALACHARI :—“ Sir, after a lot of irrelevant arguments, we have come down to abuses. (Interruption.) Then, what is the reference to ‘decency’? That apart, let me again ask hon. Members to remember that our duty is to make matters clear and reduce issues to their proper basis, instead of confounding one with another. Here, after so many interruptions, it takes us some time to clear issues. As far as I am concerned, the first point which has to be settled, in my humble opinion, is this. When a motion like this is raised, the first thing to be considered by the Hon. Speaker is whether a *prima facie* case has been made out and that has to be considered before anything else takes place. Now, it is in that process the Hon. Speaker is asking us to assist him in assessing the position.

“ The hon. Member Sri Gopalan, who made the motion began to use this House, so to say, as a platform for a talk on the Constitution itself; he said, ‘ In this Constitution there is no guarantee for hon. Members and their privileges to be extended ’. I have no objection to such a proposal if that is relevant to the matter before us. The hon. Member proceeded to make out—I think it was with a purpose and therefore I should meet it—the hon. Member wanted to make out that our Constitution is not as liberal in respect of the rights of the people as the English Constitution. I maintain, rightly or wrongly, that our Constitution has gone beyond the British Constitution in giving privileges to the people and all privileges to hon. Members also. There is absolutely no ground whatsoever for the assertion on the floor of the House by an hon. Member belonging to the opposite party that our Constitution is less liberal in this regard than the British Constitution.

[Sri C. Rajagopalachari] [20th July 1953]

As the Hon. Speaker tried to interrupt and acquaint the hon. Member even at the time when Mr. Gopalan was speaking, we were closely following the regulations of the House of Commons with regard to privileges without any change whatsoever. Therefore, his claim that our Constitution is inferior in this respect to the Constitution of Britain is wrong.

“ Secondly, the hon. Member Mr. Gopalan was making a mistake in confounding the question of responsibility of the Executive to the Legislature with the question that is here involved. Capt. Ramsay’s case was referred to by the hon. Member Mr. Gopalan. Capt. Ramsay was, I think, arrested under the Defence of the Realm Act or something like that. If the hon. Member had read the report of the Committee of the House of Commons, he would have seen, even taking the extreme view that the Defence of the Realm Act corresponds to our Preventive Detention Act and even taking that a Member was arrested and detained for no offence and where there would be no trial by Court, it cannot be a question of privilege because the regulations made for such arrests under the Defence of the Realm Act had come to Parliament for consideration and therefore the law that gave power for such detention or arrest being a law made by Parliament, the question of privilege does not apply. That was the position in that case, Sir, and that is exactly the position which should arise here if the question had been made on behalf of a Member when he was arrested under the Preventive Detention Act or otherwise. Here it is no such question. Here the position is totally different. Mr. Gopalan was, I think, considerably handicapped by having a prepared paper with him which did not apply to the present case. After finishing reading, he began to argue. If he read the actual report and spoke on it, the question would be simple. Now, Sir, I have already stated the facts as my information went. (Interruption by Sri P. Venkateswarlu.) Without being interrupted by Sri P. Venkateswarlu, I think I have made a statement of facts. The hon. Member has not made a statement of facts, but began to talk on the question of translation and all that. The hon. Member who made an oral statement here did not keep to the paper that he gave to the Hon. Speaker on the subject. In the paper given to the Hon. Speaker, he definitely said that he was speaking to the D.S.P. but it is found that he was with me escorting me.

SRI T. NAGI REDDI :—“ It was ‘ Dy. S.P. ’ and the difference was only ‘ y ’.”

* THE HON. SRI C. RAJAGOPALACHARI :—“ In the statement he made here, he said, that he was speaking to the Deputy Superintendent. Then ‘ the Police Inspector took him away ’ from such and such a place to such and such a place. The facts are altered in the statement now. It was stated, he was talking to the District Superintendent of Police in the paper that was given to the Hon. Speaker. Now, Sir, we are not going into the merits of the case or the truth of the matter. The question is whether there is a *prima facie* case. (Interruption by Sri T. Nagi Reddi.)

20th July 1953] [Sri C. Rajagopalachari]

Don't advise and instruct me. I am able to take care of myself. Sir, we are bound to take the maximum that is stated in a paper in order to discover whether there is a *prima facie* case; whether it is the maximum stated in the paper or maximum on the floor of the House here, it does not make any difference."

SRI T. NAGI REDDI :—" No difference between D.S.P. and Dy.S.P."

* THE HON. SRI C. RAJAGOPALACHARI :—" They have passed all bounds of taking advice from me.

" The question whether we should take the maximum that is put down in the written paper or we should take the maximum that is put down in the oral statement on the floor of the House, it does not matter. Though they are different from one another, I am prepared to take both the maxima. But the question is what is the matter? So far as the other persons are concerned about whom allegations are made and appeals are made that I should have received them or heard depositions and the like, they are totally different matters. I was dealing with it and I have dealt with it to the best of my ability. If the Police had arrested the member, they would have had to make a report to the Hon. Speaker. Now, the person who arrested him, according to the allegation, would have sent a report to the Hon. Speaker, if he had really arrested him. What, as a matter of fact, happened was that he did not arrest him. If that fact has to be gone into, it can be gone into. But that is not the question. If he had been wrongfully arrested as Mr. Kalyanasundaram and others have argued, if he was wrongfully restrained, without being arrested, it is a worse case no doubt. But it was raised as a question of privilege. If a man is wrongfully confined without being arrested giving rise to a prosecution for wrongful confinement, what is the consequence? Is it privilege? No, Sir. If a person is kidnapped, or for instance, an ordinary criminal kidnapped an hon. Member . . . (Sri T. Nagi Reddi : 'The Police Inspector is not a criminal') Why don't you wait to understand what I say? You don't understand. Certainly you should understand a thing before commenting on it. (Interruption.) You gain nothing and nobody gains by premature comments. It is only ebullition and not a comment. So, Sir, if a crime is committed by anybody against a Member of Parliament or a Member of a Legislative Assembly, it gives rise to certain other consequences. It is only when arrest takes place that this privilege motion comes in. When a crime is committed, other consequences come in. Therefore it was that I mentioned that the hon. Member made no complaint to the local Magistrate or the Court on the subject till now. If a complaint had been made to the Magistrate, if the matter had been taken to a Court, we would have had an enquiry. Therefore it is wrong . . . (Sri T. Nagi Reddi : 'He forgot.') I say it is only childish talk and nothing else. (Interruption by Sri T. Nagi Reddi.) "

MR. SPEAKER :—" The hon. Member should not disturb the Chief Minister."

[20th July 1953]

* THE HON. SRI C. RAJAGOPALACHARI :—“ If a person is arrested or imprisoned in the proper way, the only duty cast upon the Executive according to rules and conventions of privilege as reduced finally is that the case should be reported to the Hon. Speaker here or the Hon. Speaker in Parliament and there is nothing else. If such a thing is not made, but a graver offence is committed by arresting a person without any record of it, then a complaint should be made to the local Magistrate or to the Court. No such complaint was made for so long a time. On the technical aspect alone, I say, if no complaint was made, then no case of privilege arises now. The question therefore is very simple whether we should take reports published in newspapers. For instance, the hon. Member Sri P. Rangasamy Reddiar who claimed a special right to speak on this subject referred to the report published in *Dinamani*. What appears in a newspaper really is a report from a correspondent recast in the editorial office. The report is from its correspondent who gets information from those who had some information on the subject. I submit, Sir, we should not go down so far as that to get at facts. There are cases where a report in a newspaper is relevant in its own way (?). Here we cannot get at facts from a report from *Dinamani*. The hon. Member Mr. Gopalan who made a statement did not say anything which would give rise to a claim for privilege. I submit therefore that there is no *prima facie* case and there is no case for enquiry too.”

10-30 a.m. SRI N. K. PALANISAMI :—“ I have already submitted my memorandum to the Hon. Chief Minister. I do not know in what language I had to submit the same to you, Sir. Therefore I submitted it to the Chief Minister.”

MR. SPEAKER :—“ The hon. Member says he has already reported to the Chief Minister.”

SRI M. KALYANASUNDARAM :—“ The Hon. Chief Minister had observed that even granting that this was a wrongful confinement, the hon. Member concerned could have reported about that wrongful confinement to the courts. That is not the issue at present. We are concerned with the privilege of hon. Members. The Chief Minister says that this wrongful confinement does not amount to a breach of privilege. I say it certainly amounts to that only. The hon. Member is an elected Member of this House. He wanted to represent to the Chief Minister about an important thing concerning the people of his constituency. That formed part of his duty as an M.L.A. He was prevented from doing so by the police. As such he could not attend to his work. That amounts to curbing his right to represent his case to the Hon. Chief Minister as an M.L.A. Therefore, I submit, Sir, this amounts certainly to a breach of privilege of the hon. Member as an M.L.A. and as such of the whole House.”

MR. SPEAKER :—“ At the outset let me inform the House that we, the Members of this House enjoy the same privileges that

20th July 1953]

[Mr. Speaker]

the
the
The

are enjoyed by the Members of the House of Commons, nothing more and nothing less. We cannot create new privileges. In the House of Commons also they cannot create new privileges. They cannot create new privileges not warranted by the known laws and customs of Parliament. Sri K. P. Gopalan wants to create here new privileges. Let me now quote from our own Constitution for the benefit of hon. Members to show that we enjoy the same privileges as Members of the House of Commons.

“Article 194, sub-clause (3) of our Constitution says :

‘In other respects the powers, privileges and immunities of a House of the Legislature of a State, and of the members and committees of a House of such Legislature, shall be such as may from time to time be defined by the Legislature by law, and until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom.’”

SRI M. KALYANASUNDARAM :—“We are not claiming new privileges, Sir.”

MR. SPEAKER :—“The hon. Member Sri K. P. Gopalan wants us to create some new privileges. In fact, he has said so in his speech.

“Let me read for the benefit of hon. Members, the ruling given by the Hon. Speaker in the House of Commons on December 9, 1946. It is as follows :

‘That the assaulting, insulting or menacing any Member of this House, in his coming to or going from the House, or upon the account of his behaviour in Parliament, is a high infringement of the privilege of this House, a most outrageous and dangerous violation of the rights of Parliament, and a high crime and misdemeanour.’

“So only if an hon. Member of the House is molested, assaulted or menaced while he is *coming into* the House or *going out* of the House, it constitutes a breach of privilege.”

AN HON. MEMBER :—“Is it only this House, Sir?”

MR. SPEAKER :—“Not only this House, but in our own Parliament, also. Let me now read the portion from May’s Parliamentary Practice under the head ‘Privilege of Freedom from Arrest not claimed in respect of criminal offences or Statutory detention.’

‘The privilege of freedom from arrest is limited to civil causes and has not been allowed to interfere with the administration of criminal justice or emergency legislation.’”

SRI M. KALYANASUNDARAM :—“This is not a criminal offence, Sir. It is wrongful detention.”

MR. SPEAKER :—“Let me finish. When the Chair is on its legs, hon. Members should not stand.

‘In early times the distinction between “civil” and “criminal” was not clearly expressed. It was only to cases of “treason, felony and breach (or surety) of the peace” that privilege was explicitly held not to apply. A review of the development of the privilege reveals a tendency to confine it more narrowly to cases of a civil character and to exclude not only every kind of criminal case, but also cases, which while not strictly criminal, partake more of a criminal than civil character. This development is in conformity with the principle laid down by the Commons in a conference with the Lords in 1641.’

[Mr. Speaker]

[20th July 1953]

“Let me read what they have laid down. It is as follows :

‘Privilege of Parliament is granted in regard of the service of the Commonwealth and is not to be used to the danger of the Commonwealth.’

On another occasion in 1831 the Committee of Privileges of the House of Commons have observed thus :

‘Privilege is not claimable for any indictable offence’.”

“So far I had dealt with the rulings in the House of Commons. Let me now come to our own country. I shall refer to the report of the Committee of Privileges of the Hyderabad Legislative Assembly regarding the case of Shrimati Arutla Kamaladevi. The case rose because of Shrimati Arutla Kamaladevi, M.L.A. complaining on 31st May 1952 to the Hon. Speaker of the Hyderabad Legislative Assembly about the detention of herself along with seven of her comrades in the car for five hours on 27th May 1952 at Kandrapole Police Camp, while the said party was returning from Wadapalli after addressing a public meeting. This was referred to the Committee of Privileges. I shall read the findings of the Committee of Privileges.

‘The House was not in session on 27th May 1952 and Shrimati Arutla Kamaladevi was neither going to the Assembly nor coming from the Assembly. As such this privilege also cannot be claimed by her.’

“I am now going to give my ruling on the privilege motion of Sri K. P. Gopalan. I rule that no *prima facie* has been made out constituting a breach of privilege.

“We shall now pass on to the next item on the Agenda.”

IV.—GOVERNMENT BILL.

THE ANDHRA STATE BILL, 1953—*cont.*

SRI M. HANUMANTHA RAO :—“On a point of information, Sir. I had given notice of two adjournment motions. It may be taken up now.”

MR. SPEAKER :—“The time is now 10-30 a.m. I know the hon. Member had given notice of two adjournment motions. Not only he. Mr. Krishna Rao also had given notice of an adjournment motion. I shall take all of them tomorrow.”

SRI T. NAGI REDDI :—“Sir, one of the adjournment motions given notice of by Mr. Hanumantha Rao refers to the ‘auctions’. It is a very important matter. The auctions are going to be held to-day and thousands of people would be deprived of their lands thereby. So I submit that the same may be discussed to-day itself, and not tomorrow when the auctions would have come to an end.”

* THE HON. SRI C. RAJAGOPALACHARI :—“With regard to the plea that had just been raised, let me say a few words. I am not going to enter into the legalities involved in the matter. I am only asking them to consider this. The adjournment motion refers to the ‘auctions’ that are going to take place to-day. Let